



**NATIONAL MEDIATION BOARD**

WASHINGTON, DC 20572

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39 NMB No. 17

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**VIA EMAIL**

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Re: NMB Case No. R-7304  
Atlantic Southeast Airlines

Participants:

This determination addresses the December 14, 2011 appeal filed by the Association of Flight Attendants-CWA (AFA) of Investigator Norman L. Graber's December 12, 2011 eligibility rulings. For the reasons discussed below, AFA's appeal is denied.

I. Procedural Background

On July 12, 2011, Association of Flight Attendants-CWA (AFA) filed an application requesting the National Mediation Board (NMB or Board) to

investigate whether Atlantic Southeast Airlines (ASA) and ExpressJet Airlines (ExpressJet) were operating as a single transportation system. On October 26, 2011, the Board issued a determination finding a single transportation system at the combined ASA and ExpressJet (Carrier) for the craft or class of Flight Attendants. *Atlantic Southeast Airlines/ExpressJet Airlines*, 39 NMB 23 (2011). The Flight Attendants craft or class is represented by AFA at ASA under the Board's certification in NMB Case No. R-5811 and by the International Association of Machinists and Aerospace Workers, AFL-CIO (IAM) at ExpressJet.

On November 21, 2011, IAM filed challenges to the List of Potential Eligible Voters (List) and status changes, and AFA filed status changes. The Organizations' challenges, objections, and status changes alleged that 35 employees were left off of the List and that 253 employees should be removed from the List. On November 29, 2011, the Carrier filed a response to each set of allegations. On November 30, 2011, IAM submitted a reply to AFA's challenges to the List. On December 2, 2011, both AFA and IAM submitted a response to the Carrier's November 30, 2011 filing. On December 6, 2011, the Carrier filed a reply to the Organizations' responses. The Investigator's eligibility rulings issued on December 12, 2011. On December 14, 2011, AFA appealed the removal of two employees from the List. On December 15, 2011, the Carrier filed a response to AFA's appeal.

## II. Appeal

AFA contends that employees Tanisia Blount and Jennifer West are eligible despite having transferred to permanent positions outside of the Flight Attendants craft or class. In their initial challenges and objections, AFA and IAM both alleged that Blount and West should be removed from the List. In its November 29, 2011 response to the challenges and objections, ASA provided evidence that Blount transferred to an analyst position in the Inflight Department and that West transferred to an administrative position.<sup>1</sup> In its December 2, 2011 response to ASA, AFA argued that the employees be retained on the List, alleging that Blount and West were in temporary positions, remain on the Flight Attendant seniority list, and pay dues to AFA. On December 6, 2011, ASA provided evidence that Blount and West accepted permanent positions.

On appeal, AFA argues, citing to its collective-bargaining agreement with ASA, that Flight Attendants with more than one year of seniority working in a non-line Inflight Services position will retain and accrue seniority for one year and will retain, but not accrue, seniority for five years after that first year. According to AFA's evidence, Blount and West will retain their Flight Attendant seniority through August 2017, and continue paying AFA union dues. AFA

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<sup>1</sup> West's administrative position is also in the Inflight Department.

also argues that Blount and West share a work-related community of interest with the Flight Attendant craft or class. AFA states that these employees' community of interest is based on the following factors: (1) their representation by AFA, (2) their position on the Flight Attendant seniority list, (3) their work in the Inflight Department for the benefit of Flight Attendants, (4) they only work with Flight Attendants, and (5) they can return to flying by giving the Carrier 30 days' notice of their desire to return.

### III. Discussion

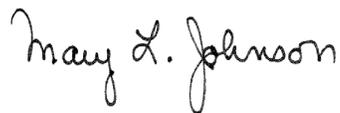
On December 6, 2011, AFA was served with ASA's evidence regarding Blount and West having accepted permanent positions outside the Flight Attendants craft or class. AFA did not provide any other evidence or argument regarding these employees prior to the Investigator's ruling on December 12, 2011. Section 10.2 of the Manual provides, in pertinent part: "Absent extraordinary circumstances, evidence submitted on appeal will not be considered by the NMB unless it was submitted to the Investigator." As noted above, AFA's evidence and argument on appeal were not presented to the Investigator. Accordingly, this evidence will not be considered on appeal, and the Investigator's rulings concerning Blount and West are upheld.

Moreover, the Board notes that, even if it were to consider AFA's evidence and arguments, employees Blount and West accepted permanent positions outside of the Flight Attendants craft or class. Manual Section 9.2 provides that only "individuals working regularly in the craft or class on and after the cut-off date are eligible to vote in an NMB representation election." Recall rights, or seniority within a craft or class, do not matter where an employee works for the carrier outside the craft or class in question. *See, e.g., Delta Air Lines, Inc.*, 38 NMB 15 (2010). Accordingly, Blount and West would not be deemed eligible even if AFA's evidence and arguments were timely presented for consideration.

### IV. Conclusion

The Board upholds the Investigator's rulings that employees Tanisia Blount and Jennifer West are ineligible to vote in the Flight Attendants craft or class.

By direction of the NATIONAL MEDIATION BOARD



Mary L. Johnson  
General Counsel